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No. 10-493

Supreme Court, U.S.
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SUPREME COURT OF THE UNITED STATES

DR. HARRY M. KATZ,

*Petitioner,*

vs.

UNITED STATES OF AMERICA,

*Respondent.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

# PETITIONER'S SUPPLEMENTAL BRIEF

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COMES NOW PETITIONER Harry M. Katz through undersigned counsel and respectfully submits the following supplemental brief in support of his petition for Writ of Certiorari.

In *Harrington v. Richter*, No. 09-587, the Court is considering the scope of counsel's obligations to present expert witness testimony as opposed to relying instead on cross-examination or other methods designed to create reasonable doubt about the defendant's guilt. The Court is also considering

the scope of deference to be granted to summary decisions of the lower courts.

In *Katz v. United States*, petitioner is urging the Court to vacate the denial of his motion pursuant to 28 U.S.C. § 2255 and the Court of Appeals summary affirmance of that denial. One of the grounds Dr. Katz is presenting is that counsel unconstitutionally failed to investigate or call available expert witnesses to rebut the government expert witness for his criminal trial. The District Court relied on counsel's cross examination of the government expert and upon Dr. Katz' own lay testimony to hold that counsel's performance was reasonable. As an additional ground, Dr. Katz is urging this Court to vacate the denial of a Certificate of Appealability by the Eighth Circuit Court of Appeals due to the summary nature of the denial. Dr. Katz argues that the summary affirmance fails to provide a reviewable record for this Court.

## CONCLUSION

Accordingly, the petition for a writ of certiorari in this case should be held pending the Court's resolution of *Harrington v. Richter*, No. 09-587 and then disposed of as appropriate in light of the Court's decision in that case.

Date: 11-5-10 .

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